



ITAR 101

(repeated from the pre-proposal conference)

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Why Should I Worry?

- Meeting the Export Control (ITAR or EAR) requirements will cost you time and effort
 - You must account for this effort in your planning
 - Swift has spent over \$1M on ITAR compliance, including schedule impacts
- Individuals can be fined for violations of ITAR
 - Currently a maximum fine of \$1 million
 - Also spend up to years in jail
- It's the law

What are the Rules

- You are subject to ITAR if you are going to “export” any “technical data” about “defense articles.”
- You need a license from State Department or Commerce Department or an exemption from NASA.
- NASA can grant exemptions to the need for a license (but not from the rules of ITAR) under most (but not all) circumstances which may apply to MIDEX proposers.
- NASA can not grant an exemption unless an agreement is in place with the foreign partner.
- It takes time to execute an agreement
 - 3-6 months to get an agency-to-agency Letter of Agreement (LOA) in place
 - up to 1 year to execute a government-to-government Memorandum of Understanding (MOU)

How does this affect my Proposal?

- Don't export controlled data without a license, even during the proposal phase
- Determine what you need for Phase A
 - must discuss how you will do Phase A in compliance with ITAR and whether you need a LOA (§3.6.4; App.4)
- Determine what you need for Phase B/C/D/E
 - when do you need a LOA or MOU, and is your schedule robust to delays in getting your agreement
- New requirement on letters of endorsement
 - If you anticipate using an agency-to-agency LOA, then the proposal Letter of Endorsement must contain either (1) a clear statement that the sponsoring agency is legally empowered to bind its own national government or (2) advance agreement that any LOA's required will be governed by U.S. law. (§3.6.5)

How does this affect my Concept Study?

- Don't export controlled data without a license, even during the Phase A concept study
- There is no guarantee that NASA can execute an interim letter agreement early in Phase A (or even during Phase A at all)
 - the default is that NASA will not execute agreements for Phase A
 - if you require an agreement and a license exemption during Phase A, this must be discussed in your proposal
- Concept study report must include detailed export control plan and draft agreements

How does this affect my Project?

- You must obey the law
- Don't export controlled data without a license or an exemption
- It takes time and effort to get an agreement in place

- References

- John Hall's SMEX Kickoff Presentation

- <http://spacescience.nasa.gov/codesr/smex/kickoff/agenda.html>

- State Department

- <http://www.pmdtc.org/>

- Commerce Department

- <http://www.bxa.doc.gov/>

- NASA Export Control Program

- <http://www.hq.nasa.gov/office/codei/nasaecp/>